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GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE
Washington, D.C. 20230

DEC 30 1974

Honorable John S. Warner
General Counsel
Central Intelligence Agency
Washington, D.C. 20505

Re: Documents to be Disclosed Pursuant to Discovery Orders
in United States v. International Business Machines Corp.,
69 Civ. 200 (S.D.N.Y.) D.N.E.

Dear Mr. Warner:

Enclosed is hopefully the final list of national security classified documents originated by your agency which have been transmitted to the Department of Justice, as Government counsel, in connection with pretrial discovery ordered by the Court in the above-cited litigation. The Justice Department requested possession of the documents prior to discussions with your agency concerning their disclosure, under protective orders of the Court, to representatives of IBM having the proper current level of security clearance.

It is my understanding that attorneys in the Antitrust Division of the Department of Justice will communicate with you in the near future concerning this matter.

If you have any questions about this matter, please contact Mr. Edward Weintraub of my staff directly on IDS Code 189, extension 5391, or 967-5391.

Sincerely,


BERNARD V. PARRETTE
ACTING General Counsel

Enclosure

COPY: Charles R. Esherick, Esq.
U.S. Department of Justice
Washington, D.C.

Next 5 Page(s) In Document Exempt

Form No. DJ-96a
(Rev. 4-13-61)

DEPARTMENT OF JUSTICE

Approved For Release 2003/04/02 : CIA-RDP78-01092A000100070027-4

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3. Re: United States v. International Business Machines.	
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☐ ANSWER OR ACKNOWLEDGE ON OR BEFORE _____

☐ PREPARE REPLY FOR THE SIGNATURE OF _____

☐ COMMENT

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☐ NOTE AND RETURN

☐ CALL ME

☐ PER CONVERSATION

☐ AS REQUESTED

☐ NOTE AND FILE

☒ YOUR INFORMATION

REMARKS

Dear

Attached you will find copies of various documents which comprise the second group of CIA classified documents filed with the Department of Commerce in connection with the export program and relating to computers. These documents and others have become matters of dispute between the United States and the International Business Machine Company (IBM). At issue, of course, is the question of the classification of the documents.

To resolve this dispute the District Court in the Southern District of New York suggests that the Department submit these documents to each agency involved to first

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REMARKS

determine whether the agency objects to a submission of the documents to IBM attorneys who possess proper clearance for the purpose of allowing them to select whatever documents they consider necessary for their defense of the case. Documents copied for this purpose will remain classified though in the possession of IBM counsel. Each agency will have to determine for itself, utilizing its own standards, which documents will be submitted or retained.

The second stage becomes operative during the trial of the case when IBM elects to include that portion of the documents it has copied in the transcript of the trial. This, of course, amounts to public disclosure. Prior to such

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REMARKS

disclosure, each agency will be asked for approval for disclosure. None of these classified documents will become a part of the record until approval is granted by the involved agency.

If you have further questions please call me at 739-4796.

Herbert F. Peters
Room 3240
U.S. Department of Justice
Washington, D.C.

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